			UNITED STATES DEPARTMENT OF COMMERCI United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov		
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/071,585	02/08/2002	Marek Kwiatkowski	11989-008001	2835	
26191759012/01/2003FISH & RICHARDSON P.C.3300 DAIN RAUSCHER PLAZA60 SOUTH SIXTH STREETMINNEAPOLIS, MN55402			EXAM	EXAMINER WHISENANT, ETHAN C	
			WHISENANT		
			ART UNIT	PAPER NUMBER	
			1634		
			DATE MAILED: 12/01/2003	3	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)					
	10/071,585	KWIATKOWSKI, MAREK					
Office Action Summary	Examiner	Art Unit					
	Ethan Whisenant, Ph.D.	1634					
The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply							
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b). Status	36(a). In no event, however, may a reply be tin within the statutory minimum of thirty (30) day ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONE date of this communication, even if timely filed	nely filed s will be considered timely. the mailing date of this communication.					
1) Responsive to communication(s) filed on							
	action is non-final.						
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213. Dispessition of Claime							
Disposition of Claims							
4) Claim(s) <u>1-33</u> is/are pending in the application.							
<ul> <li>4a) Of the above claim(s) is/are withdrawn from consideration.</li> <li>5) Claim(s) is/are allowed.</li> </ul>							
6) Claim(s) <u>1-33</u> is/are rejected.							
7) Claim(s) is/are objected to.							
	8) Claim(s) are subject to restriction and/or election requirement.						
Application Papers							
9) The specification is objected to by the Examiner.							
10) The drawing(s) filed on <u>08 February 2002</u> is/are: a) accepted or b) objected to by the Examiner.							
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
Priority under 35 U.S.C. §§ 119 and 120							
<ul> <li>12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) All b) Some * c) None of: <ol> <li>Certified copies of the priority documents have been received.</li> <li>Certified copies of the priority documents have been received in Application No.</li> <li>Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol> </li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> <li>13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78. <ol> <li>The translation of the foreign language provisional application has been received.</li> </ol> </li> <li>14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 120 and/or 121 since a specific reference was included in the first sentence of the specification Data Sheet. 37 CFR 1.78.</li> </ul>							
Attachment(s)							
<ul> <li>Attachment(s)</li> <li>1) Notice of References Cited (PTO-892)</li> <li>2) Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)</li> </ul>	5) Notice of Informal Pa	PTO-413) Paper No(s) ttent Application (PTO-152)					

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# **NON-FINAL ACTION**

**1.** Claim(s) 1-33 as presented in the claims as originally filed on 28 FEB 02 is/are pending in this application.

### DRAWINGS

2. The drawings filed with this application have been approved by the Examiner under 37 CFR 1.84

or 1.152.

### 35 USC § 102

**3.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that may form the

basis for rejections set forth in this Office action:

A person shall be entitled to a patent unless ---

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) The invention was described in -

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a)

### Claim Rejections under 35 USC § 102

**4. Claim(s) 1-33** is/are rejected under 35 U.S.C. 102(b) as being anticipated by Kwiatkowski et al., Nucleic Acids Research 24 (23) pages 4632-4638 (1996).

Kwiatkowski et al. teach a method for separating oligos comprising all of the limitations

recited in Claims 1-29. In addition, Kwiatkowski et al. teach a composition comprising all of the limitations recited in Claims 30-33.

**5. Claim(s) 1-33** is/are rejected under 35 U.S.C. 102(b) as being anticipated by Kwiatkowski et al. WO98/08857 (1998)]

Kwiatkowski et al. teach a method for separating oligos comprising all of the limitations recited in Claims 1-29. In addition, Kwiatkowski et al. teach a composition comprising all of the limitations recited in Claims 30-33.

**6.** Claim(s) 1-33 is/are rejected under 35 U.S.C. 102(b) as being anticipated by Kwiatkowski et al., Nucleic Acids Research 27 (24) pages 4710-4714 (1999).

Kwiatkowski et al. teach a method for separating oligos comprising all of the limitations recited in Claims 1-29. In addition, Kwiatkowski et al. teach a composition comprising all of the limitations recited in Claims 30-33.

## CONCLUSION

7. Claim(s) 1-33 is/are rejected and/or objected to for the reason(s) set forth above.

**8.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ethan Whisenant, Ph.D. whose telephone number is (703) 308-6567. The examiner can normally be reached Monday-Friday from 8:30AM -5:30PM EST or any time via voice mail. If repeated attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, W. Gary Jones, can be reached at (703) 308-1152.

The fax number for this Examiner is (703) 746-8465. Before faxing any papers please inform the examiner to avoid lost papers. Please note that the faxing of papers must conform with the Notice to Comply published in the Official Gazette, 1096 OG 30 (November 15, 1989). Any inquiry of a general

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nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-0196.

Please note that the USPTO is scheduled to relocate to its new home in Alexandria, VA very soon (JAN 04'). As a result, t he examiner's telephone and desktop FAX numbers will be changing. The new telephone and desktop FAX numbers for Ethan Whisenant, Ph.D. are/will be as shown below:
New Telephone number : (571) 272-0754
New FAX number : (571) 273-0754.

ETHAN WHISENANT PRIMARY EXAMINER